

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

GARY LEE MORACE

PLAINTIFF

VS.

CIVIL ACTION NO. 5:04CV260LN

CHEVRON PRODUCTS COMPANY, *ET AL.*

DEFENDANTS

ORDER

This matter came before the court on the Motion of Defendant Celite Corporation for Sanctions, which was referred to the undersigned by District Judge Tom S. Lee by an Order entered on June 6, 2006. The Motion was made in conjunction with a Motion to Dismiss that was granted by Judge Lee, dismissing the Plaintiff's claims against Celite with prejudice. Celite now claims that the Plaintiff's pursuit of damages for over four years with no compensable injury warrants the imposition of sanctions.

The Plaintiff opposes the Motion, on grounds that he has not violated Fed. R. Civ. P. 11 – the Rule that is the basis for Celite's Motion. Rule 11 only applies to filings made in federal court; thus, sanctions could only be imposed for pleadings submitted to the court after the removal of this case. *Edwards v. General Motors Corp.*, 153 F. 3d 242, 245(5th Cir. 1998). The primary pleading filed in this court after removal was an Amended Complaint, which was permitted by the court on an unopposed Motion to Amend. That Motion corrected the identity of one party and dismissed several more, which is not sanctionable conduct. Since that time, most of the pleadings filed have been notices of discovery efforts, which do not support the imposition of sanctions. Finally, it appears that the parties engaged in settlement discussions at some point, which also argues against the imposition of sanctions. For these reasons, the court is of the opinion that the dismissal of this

action with prejudice is sufficient to satisfy Celite's interests.

IT IS, THEREFORE, ORDERED that the Motion of Defendant Celite Corporation for sanctions is hereby **denied**.

IT IS SO ORDERED, this the 25th day of August, 2006.

S/John R. Roper
UNITED STATES MAGISTRATE JUDGE